IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2237 OF 2005

M/s. Archana Industries Transformers Pvt. Ltd. & Anr ...Petitioners

Versus

M/s. Alfa Transcore Industries and Another ...Respondents

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Mr. Leroy Collaco i/b Leroy Collaco & Associates, Advocate for Petitioners

Mr.K.T. Bubu, Adv. for Respondent No.1.

Mr. Rajesh More, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 27TH SEPTEMBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioners, learned advocate for the respondent No.1 i.e. original complainant and the learned A.P.P. for the State.

2. The petitioners have prayed for quashing of proceedings relating to Criminal Case No. 1079/C of 2002 which is pending in the Court of learned Metropolitan Magistrate, Vikhroli, Mumbai. In the said case, process has been issued against the petitioners under Section 138 of Negotiable

Instruments Act. The learned advocate for the petitioners submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process issued against the petitioners is set aside, the proceedings in respect of the petitioners would come to an end.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap V. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today. The learned advocate for the respondent No. 1 i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before

the learned Sessions Judge.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

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